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REMARKS

The above-referenced patent application has been reviewed in light of the Office Action referenced above. Reconsideration of the above-referenced patent application in view of the following remarks is respectfully requested.

Claims 156-181 are pending in the application. Claims 156, 165, 166, 168, 169, 173, 178, 179, and 181 have been amended. Claim 157 has been cancelled. The amendment is fully supported by the original disclosure. No new matter has been introduced. Assignee asserts that no prosecution history estoppel should result from the above amendments where the amendments were made to clarify Assignee's claims and/or broaden scope of the amended claims.

Claim rejections - 35 USC §103

Claims 156-179 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shear (US Pat. No. 4,827,508) in view of Matyas, Jr. et al. (US Pat. No. 4,850,017). Claims 180-181 are rejected under 35 U.S. C. 103(a) as being unpatentable over Shear and Matyas as applied to claims 156-179, and further in view of Atalla (US Pat. No. 4,588,991). These rejections are respectfully traversed.

Assignee respectfully submits the Examiner has not established that the proposed combination discloses all of the elements of independent claim 156. The Examiner is kindly reminded that the Examiner's initial burden of factually supporting any *prima facie* conclusion of obviousness includes that:

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. MPEP § 2143.03.

For example, Examiner has not established that the proposed combination discloses "receiving by a user at least one of a plurality of utilization permit keys that corresponds only to at least one of different types of uses of the digital data requested by the user wherein the different types of uses of digital data comprise one or more of the following: display, edit, storage, copy, or transfer, or combinations thereof, each of the utilization permit keys permitting only the corresponding at least one of the different types of uses of the digital data", as recited in claim 156. In the present Office Action, the Examiner concedes that Shear does not disclose such a feature:

Shear does not disclose the keys corresponding to at least one of different types of uses of digital data requested by the user, each of the utilization permit keys permitting only the corresponding at least one of the different types of uses of the digital data. (See page 3 of the Office Action)

The Examiner attempts to cure Shear of this failure through combination with Matyas, asserting:

The system of Matyas discloses supplying to a user at least one of a plurality of utilization permit keys correspond only to at least one of different types of uses of digital data requested by the user (column 8 lines 7-61). Each of the utilization permit keys permitting only the corresponding at least one of the different types of uses of the digital data (column 7 lines 57-67). (See page 3 of the Office Action)

However, Assignee can find no support in column 7 lines 57-67 or in column 8 lines 7-61 of Matyas for the Examiner's contention that Matyas discloses the keys corresponding to "at least one of different types of uses of digital data requested by the user", as recited in claim 156. Rather, the Examiner has only cited to portions of Matyas prescribing how the key itself may be

limited to one use or another but has not established that any portion of Matyas discusses any limitation on the "uses of the digital data", as recited in claim 156. In the recent Office Action the Examiner has attempted to refute this failure of Matyas, responding:

The KUF of Matyas permits the received first form of the key to be used only in the manner prescribed by the received first control value and the KUF at the second using station permits the received second form of the key to be used only in the manner prescribed by the received first control value (column 8 lines 34-43). Therefore the key performs only the requested use of the digital data. (See page 2 of the Office Action)

Assignee cannot agree. Specifically, the Examiner has not established that the KUF based on control value C of Matyas are directly relevant to any limitation on the "uses of the digital data", as recited in claim 156. Conversely, column 7, line 57 to column 8 line 6 of Matyas discusses the control value C as follows:

The cryptographic facility at each station in the network configuration of FIG. 1 has a Key Generation Function (KGF) and a Key Usage Function (KUF). Each key generated by a KGF has an associated control value C which prescribes how the key may be used; e.g., encrypt only, decrypt only, generation of message authentication codes, verification of message authentication codes, etc. The KUF provides a key authorization function to ensure that a requested usage of a key complies with the control value C, and in one aspect of the described invention it also serves as an authentication function to ensure that a requested key and control value are valid before allowing the key to be used. Thus, the KUF is the logical component of the cryptographic facility that enforces how keys are used at each using station, and in this sense, the KUFs collectively enforce the overall network key usage as dictated by the generating station. (See column 7, line 57 to column 8 line 6 of Matyas)

Here, Assignee submits that the Examiner has failed to establish that the prescription of the control value C of Matyas for "encrypt only, decrypt only, generation of message authentication codes, verification of message authentication codes" teaches or suggests any limitation on the

"uses of the digital data", let alone limitation on the recited uses of "display, edit, storage, copy, or transfer", as recited in claim 156. Elsewhere in the Office Action, the Examiner has asserted that different uses are disclosed in Shear:

As per claim 157, the limitations of the different uses of digital data including display (see Shear Figure 5, element 504, Column 7, line 7), editing (i.e., modifying Column 7, line 11), (copying (Shear Column 7, line 14) and digital data transfer (i.e., telecommunication, Shear Column 7, line 11) and storage (Column 12, lines 44-47). (See page 4 of the Office Action)

Assignee cannot agree. First, the Examiner has conceded that Shear does not disclose keys corresponding to at least one of different types of uses of digital data requested by the user; accordingly, the Examiner cannot now contend that Shear discloses "utilization permit keys that corresponds only to at least one of different types of uses of the digital data requested by the user wherein the different types of uses of digital data comprise one or more of the following: display, edit, storage, copy, or transfer, or combinations thereof", as recited in claim 156. The Examiner has not established any nexus between a key in Shear with limitations to operations of display, edit, storage, copy, or transfer digital data; likewise, as argued above, the Examiner also has not established any nexus between a key in Matyas with limitations to operations of display, edit, storage, copy, or transfer digital data. In the absence of the Examiner pointing to such a disclosure in the proposed combination, Assignee requests that the rejection be withdrawn as the Examiner failed to establish that the proposed combination renders obvious all of the features of claim 156. Claims 158-181 are similarly not obvious, at least on the same or similar basis as claim 156.

Second, Assignee respectfully submits the Examiner has not established that the proposed combination discloses all of the elements of independent claim 169. For example, Examiner has not established that the proposed combination discloses "decrypting encrypted digital data using the at least one of the plurality of utilization permit keys only when the requested use is display or edit", as recited in claim 169. In the present Office Action, the Examiner argues:

The limitations of claim 169, are identical to those of claims 156, with the added limitations that the uses specified in claim 156 are now specified (display edit copy storage and transfer) which have been addressed in claim 157. (See page 6 of the Office Action)

However, Assignee submits that the Examiner has not addressed the recited claim feature of decrypting encrypted digital data using the at least one of the plurality of utilization permit keys only when the requested use is display or edit", as recited in claim 169. In the absence of the Examiner pointing to such a disclosure in the proposed combination, Assignee requests that the rejection be withdrawn as the Examiner failed to establish that the proposed combination renders obvious all of the features of claim 169. Claims 170-181 are similarly not obvious, at least on the same or similar basis as claim 169.

Third, Assignee respectfully submits the Examiner has not established that the proposed combination discloses all of the elements of dependent claim 158. For example, Examiner has not established that the proposed combination discloses "wherein the plurality of utilization permit keys include a display permit key permitting only display of the digital data, an edit permit key permitting only display and editing of the digital data, a storage permit key

permitting only storage of the digital data, a copy permit key permitting only copying of the digital data, and a transfer permit key permitting only transferring of the digital data", as recited in claim 158. In the present Office Action, the Examiner asserts that Shear discloses such a feature:

As per claims 158-159, and 161-163 the limitations of this claims differ from those of claims 156 by recitation that only predefined access tasks can be performed and in the case of 158 those access task are the limiting of the tasks (e.g. transfer, storage, editing, display) to digital data only as defined by copyright control program. Shear discloses the using predefined access task (algorithms) column 12 lines 1-2. Shear further discloses a copyright decoder (decryption) control logic (program) element 316 Figure 3 and Column 16 lines 1-28 for requested use data. Thus limiting the user to say viewing the documents (browsing) or the number of times the document can be viewed or the number of requests or tasks (use of usage keys) that the system can perform, or the type of data the user could access (digital versus analog or video or music etc.) would constitute limiting through predefined access by the copyright decoder control logic. (See page 4 of the Office Action)

Assignee cannot agree. Specifically, the Examiner has not established that the predefined access algorithm of Shear has anything to do with a "permit key" for use in an encryption/decryption process. Conversely, column 11, line 64 to column 12 line 2 of Shear discusses the predefined access algorithm of Shear as follows:

In one possible permutation of the invention, neither the database nor the index stored on medium 100 is "encrypted" using a formal encryption algorithm, but instead, the manner in which the database and/or the index is stored on the storage medium is itself used to make information incoherent unless it is read from the medium using a predefined access algorithm. (See column 11, line 64 to column 12 line 2 of Shear)

Accordingly, the predefined access algorithm of Shear appears to teach away from use of a "permit key" in an encryption/decryption process such as "wherein the plurality of utilization

permit keys include a display permit key permitting only display of the digital data, an edit permit key permitting only display and editing of the digital data, a storage permit key permitting only storage of the digital data, a copy permit key permitting only copying of the digital data, and a transfer permit key permitting only transferring of the digital data", as recited in claim 158. Additionally, the Examiner has failed to establish that the proposed combination would teach or suggest the specific claim limitations of: "a display permit key permitting only display of the digital data", or "an edit permit key permitting only display and editing of the digital data", or "a storage permit key permitting only storage of the digital data", or "a copy permit key permitting only copying of the digital data", or "a transfer permit key permitting only transferring of the digital data", as recited in claim 158. In the absence of the Examiner pointing to such a disclosure in the proposed combination, Assignee requests that the rejection be withdrawn as the Examiner failed to establish that the proposed combination renders obvious all of the features of claim 158. Claim 171 is similarly not obvious, at least on the same or similar basis as claim 158.

Fourth, Assignee respectfully submits the Examiner has not established that the proposed combination discloses all of the elements of dependent claim 160. For example, Examiner has not established that the proposed combination discloses "displaying a copyright control message by a copyright control program when the user attempts one of the different types of uses of the digital data different from the requested use of the digital data", as recited in claim 160. In the present Office Action, the Examiner asserts that Shear discloses such a feature:

As per claim 160, the limitation of displaying a copyright control message attempts to use other than predefined commands is taught by Shear. Shear teaches the issuance of warning messages if the user contravenes security policies (i.e. no tampering with the system, Column 21 line 59). (See page 4 of the Office Action)

Assignee cannot agree. Specifically, the Examiner has not established that security policies of Shear have anything to do with a "displaying a copyright control message by a copyright control program when the user attempts one of the different types of uses of the digital data different from the requested use of the digital data" where the uses correspond to "utilization permit keys", as recited in claim 160. Conversely, column 21, lines 57-64 of Shear discusses the warning message of Shear as follows:

Any attempts to tamper with the floppy disk which alters the last read/write head position may cause a warning message to be stored on the floppy disk in a database audit trail section of the disk (possibly along with cumulative messages indicating previous such occurrences) and may also result in destruction and/or disablement of the secure program control software. (See column 21, lines 57-64 of Shear)

Accordingly, the Examiner has failed to establish the warning message of Shear teaches or suggests 1). "displaying a copyright control message" based on usage of "utilization permit keys", or 2) "displaying a copyright control message ... when the user attempts one of the different types of uses of the digital data different from the requested use of the digital data" where the uses correspond to "utilization permit keys", as recited in claim 160. In the absence of the Examiner pointing to such a disclosure in the proposed combination, Assignee requests that the rejection be withdrawn as the Examiner failed to establish that the proposed combination renders obvious all of the features of claim 160. Claim 173 is similarly not obvious, at least on the same or similar basis as claim 160.

It is noted that claimed subject matter may be patentably distinguished from the cited references for additional reasons; however, the foregoing is believed to be sufficient. Likewise, it is noted that the Assignee's failure to comment directly upon any of the positions asserted by the Examiner in the office action does not indicate agreement or acquiescence with those asserted positions.

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Conclusion

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

Invitation for a Telephone Interview

The Examiner is invited to call the undersigned attorney, James J. Lynch, at (503) 439-6500 if there remains any issue with allowance.

Additional fees

Any fees or extensions of time believed to be due in connection with this amendment are enclosed herein; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account 50-3703.

Respectfully submitted,
Attorney for Assignee

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